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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,
11 Plaintiff,
12 vs.
13 SEBASTIAN VEGA-BELTRAN,
14 Defendant.
15

CASE NO. 12-cr-4989-GPC

**ORDER DENYING RULE 41
MOTION FOR RETURN OF
PROPERTY**

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17 This matter comes before the Court on Defendant Sebastian Vega-Beltran's
18 Motion for Return of Property Pursuant to Fed. R. Crim. P. 41(g). The Government has
19 filed a response and opposition and Defendant failed to file any reply to the opposition.
20 For the reasons stated herein, the motion is DENIED.

21 **BACKGROUND**

22 On November 2, 2012, Defendant Sebastian Vega-Beltran (hereinafter
23 "Defendant") drove an unmarked commercial bus from Mexico into the United States
24 through the San Ysidro Port of Entry. A search of the bus by law enforcement officers
25 revealed approximately 225.48 kilograms of marijuana concealed in the bus. Defendant
26 was charged with importation of marijuana in violation of Title 21, United States Code,
27 Sections 952 and 960 and entered a guilty plea pursuant to a written plea agreement
28 filed on or about January 29, 2013. (ECF No. 21) The plea was accepted by the District

1 Court on February 25, 2013 (ECF No. 25), and Defendant was sentenced on April 12,
2 2013, to 24 months in custody and two years of supervised release. (ECF No. 33.)

3 On October 21, 2013, Defendant filed a motion for return of \$1,000.00 in U.S.
4 Currency seized from him on November 2, 2012. (ECF No. 35.) Subsequent to
5 Defendant's arrest in November 2012, Customs and Border Protection had initiated and
6 completed administrative forfeiture proceedings as to the claimed \$1,000.00. (ECF No.
7 38-2) On December 11, 2012, CBP sent notices of administrative forfeiture to
8 Defendant at two addresses and also published its notice of forfeiture on February 6,
9 13 and 20, 2013. (Id.) No claims or petitions were received in response to either the
10 directly sent notice or the published notice (Id.) CBP entered a Declaration of
11 Administrative Forfeiture of the \$1,000 on April 11, 2013. (Id.) The money was
12 thereafter deposited into the United States Treasury.

13 ANALYSIS

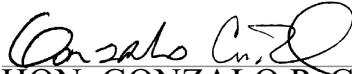
14 Paragraph I.C. of the written plea agreement contains a specific and detailed
15 consent and agreement by Defendant to forfeiture of all property seized in connection
16 with the case. (ECF No. 21 at 2.) The money seized from Defendant at the time of his
17 arrest on the marijuana importation charge was property seized in connection with the
18 case. Under the plea agreement, Defendant is bound by the forfeiture of the money.

19 Also, this Court lacks jurisdiction to grant Defendant's Rule 41 motion. A forum
20 and remedies existed to address Defendant's claims in the administrative forfeiture
21 process which he chose to ignore or not otherwise respond. See United States v. United
22 States Currency, \$83,310.78, 851 F.2d 1231 (9th Cir. 1988) (government filing of civil
23 forfeiture action required dismissal of owner's Rule 41(e) motion – 41(e) is the
24 predecessor to 41(g)); Shaw v. United States, 891 F.2d 602 (6th Cir. 1989) (once
25 government instituted civil forfeiture proceedings concerning money seized from
26 claimant, claimant could not move under Rule 41(e) for return of property so as to
27 bypass statutory forfeiture procedure; motion for return of property under rule of
28 criminal procedure was equitable remedy, and claimant had adequate remedy at law).

CONCLUSION

It is hereby ORDERED that Defendant Sebastian Vega-Beltran's Motion for Return of Property Pursuant to Fed. R. Crim. P. 41(g) is DENIED.

DATED: November 10, 2014


HON. GONZALO P. CURIEL
United States District Judge